

IN THE CIRCUIT COURT, FOURTH
JUDICIAL CIRCUIT, IN AND FOR
DUVAL COUNTY, FLORIDA

CASE NO.
DIVISION: 1b- 2008-CA-010332

-XXXX-MA

HUGH COTNEY, as Attorney Ad Litem
for JANE DOE, a minor child

Plaintiff,

v.
RICHARD L. TYLSKI, an individual
JANE M. TYLSKI, an individual

Defendants.

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COMPLAINT

Plaintiff, HUGH COTNEY, as Attorney Ad Litem for JANE DOE ("DOE") a minor child, sues Defendants, RICHARD TYLSKI and JANE TYLSKI and alleges:

1. This is an action for damages which exceed the sum of Fifteen Thousand Dollars (\$15,000.00), exclusive of interest and costs.
2. Hugh Cotney is a Florida attorney. He was appointed as Attorney Ad Litem for the minor child DOE following her removal in 2006 from the home of RICHARD and JANE TYLSKI in Duval County, Florida.
3. DOE is a resident of Duval County, Florida.
4. Defendants RICHARD and JANE TYSLKI are residents of Duval County, Florida.
5. At all times material, Defendants RICHARD and JANE TYLSKI were the adoptive parents of DOE.
6. Venue for this action is proper in Duval County, Florida because all of the tortious

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and wrongful conduct described herein took place in Duval County, Florida.

GENERAL ALLEGATIONS

7. On April 13, 2004, RICHARD and JANE TYLSKI adopted DOE who was then four years old.
8. Between April 13, 2004 and March 9, 2006, DOE was subjected to ongoing, systematic and malicious punishment, physical, psychological and emotional abuse, and medical neglect at the hands of Defendants RICHARD and JANE TYLSKI.
9. The prolonged physical, psychological and emotional abuse included the following:
 - a. Inflicting a deep laceration over DOE's left eye, requiring stitches, after striking her head into a hard surface as punishment for refusing to eat her dinner;
 - b. Breaking DOE's fingers by beating them against a hard surface for failure to eat her dinner;
 - c. Subjecting DOE to countless beatings; and
 - d. Failing to seek prompt medical attention after inflicting physical abuse upon her.
10. On or about March 9, 2006, DOE was transported to Wolfson's Children Hospital where the following was noted:
 - a. DOE had an acute fracture to the right femur;
 - b. An X-ray revealed several old fractures;
 - c. An old fracture of the right elbow was treated surgically with a metal screw approximately two years prior;
 - d. Sclerosis and cortical thickening, suggestive of a healed fracture in

- the left arm;
- e. A well-healed fracture to the right elbow and multiple healing fractures of different bones of the right hand;
 - f. Numerous and extensive bruising on various parts of DOE's body including her chest, legs, entire back, face, ear, arms, inside thighs and shins;
 - g. The bruising was varied in color, shape and size, and some had puncture wounds;
 - h. A CAT scan revealed old fractures to the left forearm and healed fractures of the left hand; and
 - i. DOE's left ring finger was visibly crooked from a previous fracture.
11. On May 22, 2008, Defendants appeared in the Circuit Court of Duval County to answer charges of child abuse. At that time JANE TYLSKI pled guilty to aggravated child abuse. Defendant RICHARD TYLSKI admitted that he exceeded the scope of appropriate parental discipline which resulted in some of the marks seen on DOE on March 9, 2006.
12. As a direct and proximate result of the conduct of Defendants RICHARD and JANE TYLSKI, DOE required hospitalization, medical care, therapy, and counseling. She currently needs surgery and counseling. She will be required in the future to seek medical care and counseling, and incur costs and expenses.
- COUNT 1**
- INTENTIONAL INFILCTION OF EMOTIONAL DISTRESS**
13. Plaintiff re-alleges and incorporates herein all previous allegations in paragraphs

- one (1) through twelve (12).
14. Defendants RICHARD and JANE TYLSKI intentionally engaged in extreme and outrageous abuse of DOE knowing that it would cause her severe emotional distress. Alternatively, Defendants RICHARD and JANE TYLSKI were recklessly indifferent to the likelihood that their conduct would cause DOE severe emotional distress.
 15. As a direct and proximate result of the extreme and outrageous conduct and intentional infliction of emotional distress upon DOE by Defendants RICHARD and JANE TYLSKI, as described herein, DOE suffered severe emotional distress requiring counseling, treatment and therapy.
 16. As a direct and proximate result of Defendants RICHARD and JANE TYLSKI's intentional acts, DOE suffered bodily injury, and resulting pain and suffering, humiliation, invasion of privacy, severe mental and emotional anguish and loss of capacity for the enjoyment of life. The losses are either permanent or continuing in nature, and DOE will continue to suffer these losses in the future.
 17. As a direct and proximate result of the extreme and outrageous conduct and intentional infliction of emotional distress by Defendants RICHARD and JANE TYLSKI, and of the severe emotional distress and harm resulting to DOE, as alleged herein, DOE required and will be required in the future to seek medical care and counseling, and incur costs and expenses.

WHEREFORE, Plaintiff demands judgment against Defendants RICHARD and JANE TYLSKI for compensatory damages, punitive damages, costs of this action and trial by jury.

COUNT II

NEGLIGENT INFILCTION OF EMOTIONAL DISTRESS

18. Plaintiff re-alleges and incorporates herein all previous allegations in paragraphs one (1) through seventeen (17).
19. Defendants RICHARD and JANE TYLSKI had a duty, as DOE's adoptive parents, to refrain from conduct that they knew or should have known would result in harm to DOE.
20. Defendants RICHARD and JANE TYLSKI were grossly negligent by engaging in ongoing and repeated abuse of DOE. In all of their interactions with DOE, as described herein, Defendants RICHARD and JANE TYLSKI engaged in conduct that was reasonably and foreseeably likely to cause harm to DOE.
21. As a direct and proximate result of the negligence of Defendants, as described herein, DOE has suffered and continues to suffer severe emotional distress.
22. As a direct and proximate result of the negligent infliction of emotional distress by Defendants RICHARD and JANE TYLSKI, and of the severe emotional distress and harm resulting to DOE, all as alleged herein, DOE required and will be required in the future to seek medical care and counseling and has incurred costs and expenses.

WHEREFORE, Plaintiff demands judgment against Defendants RICHARD and JANE TYLSKI for damages, costs of this action and demands trial by jury.

COUNT III

ASSAULT

23. Plaintiff re-alleges and incorporates herein all previous allegations in paragraphs one (1) through twenty-two (22).
24. Defendants RICHARD and JANE TYLKSI's conduct placed DOE in apprehension

of imminent harmful or offensive bodily contact.

25. As a direct and proximate cause, DOE has suffered harm, including extreme emotional distress, physical illness, humiliation, disgrace, anxiety, mental anguish, and loss of capacity for the enjoyment of life.
26. DOE's losses are either permanent or continuing in nature and DOE will suffer these losses in the future.

WHEREFORE, Plaintiff demands judgment against Defendants RICHARD and JANE TYLSKI for compensatory damages, punitive damages, costs of this action, and trial by jury.

COUNT IV

BATTERY

27. Plaintiff re-alleges and incorporates herein all previous allegations in paragraphs one (1) through twenty-six (26).
28. Defendants RICHARD and JANE TYLSKI engaged in ongoing and systematic acts of battery upon DOE.
29. Defendants RICHARD and JANE TYLSKI engaged in child abuse with the deliberate intent to cause harmful or offensive contact upon DOE.
30. Defendants RICHARD and JANE TYLSKI engaged in child abuse with the conscious desire and knowledge that DOE would suffer harm and offensive bodily contact.
31. As a result of the conduct of Defendants RICHARD and JANE TYLSKI, DOE did, in fact, suffer harmful bodily contact.
32. As a direct and proximate result of the Defendants' intentional acts, DOE suffered bodily injury and resulting pain and suffering, severe mental and emotional anguish,

humiliation, invasion of privacy and loss of capacity for the enjoyment of life. The losses are either permanent or continuing in nature, and DOE will suffer these losses in the future.

WHEREFORE, Plaintiff demands judgment against Defendants RICHARD and JANE TYLSKI for compensatory damages, punitive damages costs of this action, and trial by jury.

COUNT V

NEGLIGENCE AS TO RICHARD TYLSKI

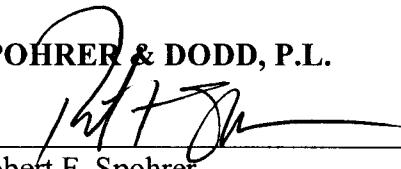
33. Plaintiff realleges and incorporates herein all previous allegations in paragraphs one (1) through thirty-two (32).
34. Defendant RICHARD TYLSKI, as DOE's adoptive parent, owed a duty to DOE to protect her from foreseeable injury and harm. Specifically, Defendant RICHARD TYLSKI owed a duty to protect DOE from ongoing and repeated abuse by Defendant JANE TYLSKI. Defendant RICHARD TYLSKI negligently breached the duty owed to DOE by:
 - a) Negligently failing to use reasonable care to eliminate foreseeable risks of harm to DOE; and
 - b) Negligently allowing DOE to remain in the care of Defendant JANE TYLSKI.
35. As a direct and proximate result of Defendant RICHARD TYLSKI's negligence, DOE suffered bodily injury, and resulting pain and suffering, humiliation, invasion of privacy, severe mental and emotional anguish resulting in hospitalization, counseling, treatment, therapy, and loss of capacity for the enjoyment of life. The losses are either permanent or continuing in nature, and DOE will continue to suffer

these losses in the future.

36. As a direct and proximate result of the negligence of Defendant RICHARD TYLSKI, as alleged herein, DOE has been required and will be required in the future to seek medical care and counseling, and incur costs and expenses.

WHEREFORE, Plaintiff demands judgment against Defendant RICHARD TYLSKI for damages, costs of this action and demands trial by jury.

SPOHRER & DODD, P.L.


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